

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2091.04
COMPLAINT INVESTIGATOR:	Jennifer Campbell
DATE OF COMPLAINT:	February 6, 2004
DATE OF REPORT:	March 5, 2004
REQUEST FOR RECONSIDERATION:	yes/no changes
DATE OF CLOSURE:	April 12, 2004

COMPLAINT ISSUES:

Whether the Tri-Creek School Corporation and the Northwest Indiana Special Education Cooperative violated:

511 IAC 7-25-3(b) by failing to establish, maintain, and implement a general education intervention (GEI) procedure.

511 IAC 7-25-4(a) by failing to hold a personal meeting with the parent to inform the parent of the school's intent to pursue an initial educational evaluation.

511 IAC 7-25-4(a)(6) and 511 IAC 7-25-4(l) by failing to inform the parent of the opportunity to request a meeting to have the evaluation results explained before the scheduled case conference committee (CCC) meeting.

511 IAC 7-25-4(b) by failing to complete an educational evaluation within sixty instructional days of the date the written parental consent is received by certified personnel.

511 IAC 7-25-4(d) by failing to review existing evaluation data on the student and to consider input from the student's parents to determine special education eligibility.

511 IAC 7-25-4(f) by failing to administer tests and evaluation materials as may be needed to produce data that can be reviewed per 511 IAC 7-25-4(d).

511 IAC 7-25-4(h) by failing to conduct a comprehensive individual evaluation to determine the existence of a disability and the student's educational needs that fulfills the requirements of Article 7, 511 IAC 7-26 that precedes any action with regard to the initial identification and provision of special education and related services.

FINDINGS OF FACT:

1. The Student is eleven years old, in the sixth grade at the School, and has been deemed not eligible for special education and related services.
2. The Complainant (the parent) alleges that the School has failed to establish a General Education Intervention (GEI) for the Student. No request was made by the teachers or the Complainant to refer the Student for a GEI. The School has an established GEI procedure in place since 1993.

3. The Complainant requested in writing on May 19, 2003, a comprehensive educational evaluation of the Student. The local planning district received the request on May 20, 2003. In the letter the Complainant states that the Student had been diagnosed with ADHD. The educational evaluation was completed and the initial case conference was held on October 22, 2003, within sixty instructional days of when the School received the request.
4. The Complainant alleges that the School failed to hold a personal meeting with her subsequent to her request for an initial evaluation in accordance with 511 IAC 7-25-4(a). The School held a Diagnostic Interview with the Complainant on October 6, 2003. Although the School Principal reports that they discussed all of the items listed in 511 IAC 7-25-4(a), there is no documentation of the information discussed. While the "Parent Permission for Special Education Evaluation" form and the "Referral for Special Education Evaluation Process identifies some of the information required, neither form includes: (1) a description of the student's learning difficulties and the reasons an educational evaluation is needed; (2) a description of the review process to determine what data exists and what, if any, additional data is needed; (3) whether GEI strategies have been used and why they were not successful; (3) the timeline for the CCC meeting (the permission form indicates that the evaluation will be conducted within 60 instructional days); (4) an explanation of how to obtain a copy of the evaluation report and request a meeting prior to the CCC meeting; and (5) a list of sources for parents to contact for assistance. The Complainant signed the permission form on October 6, 2003, giving her permission for the evaluation and acknowledging her understanding of the descriptions of the special education evaluation process. The educational evaluation was conducted after the October 6, 2003, meeting.
5. The Complainant asserts that it was not until the CCC convened on October 22, 2003, that she learned she could have met with an individual who could explain the results of the educational evaluation prior to the CCC meeting. On the Parent Permission for Special Education Evaluation is the name of the person who gave to the Complainant the Notice of the Procedural Safeguards. On page two of the Notice of Procedural Safeguards, in the section on Initial Educational Evaluation, it states: "You have the right to have someone from the school explain the results of the evaluation before the case conference committee meets." The School sent to the Parent a CCC Notice dated October 13, 2003. This notice informed the parent to call the school if the parent has questions concerning the date or time of the CCC, that a copy of the Notice of Procedural Safeguards is enclosed, and a copy of the evaluation report will be available at the School on October 15, 2003.
6. The Complainant states that the School failed to review existing evaluation data on the Student, including information provided by the Parents, specifically with regard to the Student's ADHD, when determining special education eligibility. The notes of the October 22, 2003, CCC meeting reflect that the CCC reviewed the results of a previously conducted evaluation, as well as the results of the current educational evaluation. The following Background Information (Developmental and Educational History/Medical Information) was reported in the Multi-Disciplinary Team Report, dated October 8 and October 16, 2003: the Student's ADHD diagnosis at the age of seven; the Student's history of taking medicine for ADHD; the middle school teachers primary concerns and mild concerns with regard to the Student's academic performance; medical information; and that the Student passed a hearing and vision screening on October 10, 2003. The following Discussion in the Multi-Disciplinary Report presents the results of the Connors' Parent Rating Scale-Revised filled out by the parents and the Connors' Teacher Rating Scale-Revised filled out by the teachers. The Connors' Parent Rating Scale-Revised suggested significant concerns at home which are compatible with ADHD, and that the Parent rated the Student's behavior as concerning in the area of Cognitive Problems/Inattention, Hyperactivity, and the ADHD Index. The Connors' Teacher Rating Scale-Revised completed by the Student's teachers suggested typical scores in each of the same area. However, his teachers did report that the Student is inattentive, fidgets in his seat, has a short attention span, and seems distractible in the classroom. In addition to the historical information provided by

the Parent and the results of the rating scales completed by the parent, the Parent also read to the CCC a letter she had written regarding her concerns for the Student's school progress and ADHD.

7. The Complainant states that the School failed to complete a comprehensive educational evaluation of the Student by basing the Student's eligibility for special education and related services solely on whether the Student met the qualifications as a student with a learning disability (LD) and not considering whether the Student met eligibility as a student with other health impairment (OHI). The Student was evaluated by the School Psychologist and the Educational Diagnostician. The Multi-Disciplinary Committee members were the Assistant Principal, the School Psychologist, the Educational Diagnostician, and Team 61 Teachers (Core 40 teachers who teach language arts, science, math, and social studies). The evaluation took place during two separate sessions. The Student's academic skills, psychomotor speed, intellectual ability, nonverbal skills, verbal skills, nonverbal reasoning, and immediate problem solving skills were evaluated and observed. Instruments used to test the Student included the following: Stanford-Binet, Connors' Parent and Teacher Rating Scale-Revised, Wechsler Individual Achievement Test-II, and the Woodcock Johnson III Tests of Achievement.

CONCLUSIONS:

1. Finding of Fact #2 indicates that no referral was made for a GEI by the teachers or the Complainant. The School has an established GEI in place since 1993. Therefore, no violation of 511 IAC 7-25-3(b) is found.
2. Finding of Fact #4 indicates that, although the School conducted a personal meeting with the Parent in accordance with 511 IAC 7-25-4(a), it did not provide the Parent with the requisite written information subsequent to that meeting. Therefore, a violation of 511 IAC 7-25-4(a) is found with respect to the lack of written information.
3. Finding of Fact #5 reflects that there is no documentation from the Diagnostic Interview that the School advised the Parent of the opportunity to request a meeting to discuss the evaluation results prior to the CCC meeting. However, the School provided to the Complainant the Notice of Procedural Safeguards which states that the Complainant has a right to have someone from the school explain the results of the evaluation before the CCC meets. In addition, the CCC Notice explained to the Parent when the report would be available for pick up five or more days before the CCC meeting. Although a technical violation of 511 IAC 7-25-4(a)(4) occurred, the Parent was subsequently advised, prior to the CCC meeting, that she could request a meeting to discuss the evaluation results. Therefore, no violation of 511 IAC 7-25-4(l) occurred.
4. Finding of Fact #3 indicates that the School completed an educational evaluation within sixty instructional days. Therefore, no violation of IAC 511 7-25-4(b) is found.
5. Finding of Fact #6 indicates the School did review existing evaluation data on the Student and did consider input from the Student's Parent when determining special education eligibility. Therefore, no violation of 511 IAC 7-25-4(d) is found.
6. Finding of Fact #7 indicates that the School did administer tests and evaluation materials as may be needed to produce the data to be reviewed per 511 IAC 7-25-4(d). Therefore, no violation of 511 IAC 7-25-4(f) is found.
7. Findings of Fact #6 and #7 indicate that the School did conduct a comprehensive evaluation to determine the existence of a disability. Therefore, no violation of 511 IAC 7-25-4(h) is found. It should be noted that, if the Parent disagrees with the results of an educational evaluation, the Parent has recourse through a request for an independent educational evaluation or due process proceedings.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

The Tri-Creek School Corporation and the Northwest Indiana Special Education Cooperative shall review, and if necessary revise, its procedures for conducting personal meetings and providing written information to parents when an initial educational evaluation has been requested to ensure that the procedures comply with the requirements of 511 IAC 7-25-4(a)(1) through (8). The School shall submit to the Division, no later than April 9, 2004, a copy of its procedures, including the format in which the written information will be provided to parents. The School shall also provide a written reminder to appropriate staff regarding these procedures and submit a copy of the written notice to the Division no later than April 9, 2004.